IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:26.02.2007

CORAM:

THE HON'BLE MR. JUSTICE P. SATHASIVAM
AND
THE HON'BLE MR. JUSTICE N. PAUL VASANTHAKUMAR

WRIT APPEAL No.1980 of 2003

1.The Sub-Registrar
Kodambakkam
Office of the Sub-registrar
Kodambakkam, Chennai 24.

2.The District Revenue Officer (Stamps)
Singaravelar Maligai
Rajaji Salai
Chennai 600 001. .. Appellants

vs.

Mansoor Ali Khan .. Respondent

Writ Appeal filed under Clause 15 of the Letters Patent against the order of this Court made in W.P.No.13314 of 2003 dated 28.04.2003. To issue a writ of Mandamus directing the first respondent to return the sale deed of the petitioenr dated 30.11.2001 in document NO. 3487/01 in pending document No. 203/01 on the file of 1st Respondent.

For appellants : Mr. K. Elango
Special Government Pleader

For respondent : Mr. A.R. Nixon

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JUDGMENT

(Judgment of the Court was delivered by P. SATHASIVAM,J.)

Aggrieved by the order of the learned single Judge dated 28.04.2004 made in W.P.No.13314 of 2003, the Sub-Registrar, Kodambakkam and the District Revenue Officer (Stamps), Chennai-1, have preferred the above writ appeal.

2. The respondent herein approached this Court by filing writ petition in W.P.No.13314 of 2003, praying to issue a Writ of Mandmaus directing the Sub-Registrar, Kodambakkam, first respondent therein, to return his sale deed dated 30.11.2001 in Document No.3487/2001 pending on his file in Document No.203/2001. According to the writ petitioner, he purchased the property in Plot No."U", Thirukumarapuram, Arumbakkam, Chennai-106, by a deed of sale dated 13.11.2001, valued at Rs.3 lakhs. The sale deed has

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to be registered at the Office of the first respondent, Sub-Registrar, Kodambakkam. According to him, he paid 13% on the value of the property sold and purchased under the Indian Stamp Act and 1% of the value of the property under the Indian Registration Act and in total he paid a sum of Rs.42,000/- along with Rs.30/-; altogether comes to Rs.42,030/-. The first respondent, Sub-Registrar, Kodambakkam forwarded the document to the second respondent, District Revenue Officer(Stamps),Chennai-1, to determine the correct market value under Section 47-A of the Indian Stamp Act. Thereupon, the second respondent called him for payment of differential stamp duty amounting to Rs.1,35,984/- by his proceedings dated 23.12.2002. The writ petitioner paid the differential stamp duty as determined by the second respondent on 31.03.2003 with interest of Rs.2,720/-. Thereafter, the petitioner sought for release of his document from the office of the first respondent. It is the case of the petitioner that in spite of payment of required stamp duty with interest as claimed, the first respondent has not returned the registered sale deed to him, hence he filed the said writ petition. The learned Judge by order dated 28.04.2003, after finding that since the petitioner had paid the stamp duty as directed, issued direction to the respondents for return of the document within one week from the date of production of copy of the order. In the same order, the learned Judge permitted the writ petitioner to file an appeal if he so desires. Questioning the said order, the Sub-Registrar, Kodambakkam and the District Revenue Officer (Stamps), Chennai-1 have preferred the present appeal.

3. It is not in dispute that total extent/area purchased by the writ petitioner is 11,665.5 sq.ft. and the market value has been fixed at the rate of Rs.500/- per sq.ft. If that is so, the total value of the property purchased by the writ petitioner comes to Rs.58,32,800/-. It is also not in dispute that as per the provisions of the Indian Stamp Act, he is liable to pay stamp duty at the rate of 13%, which comes to Rs.7,58,264/-. No doubt, as per the communication from the office of the Sub-Registrar, Kodambakkam, the petitioner paid the stamp duty of Rs.39,000/- and on the basis of the subsequent communication, he remitted a sum of Rs.1,35,984/-. The learned counsel appearing for the writ petitioner pointed out that inasmuch as the petitioner had remitted the amount as demanded by the Sub-Registrar, Kodambakkam, he cannot be blamed and he cannot be compelled to pay the deficit stamp duty as claimed by the respondents. He also contended that the proceedings of the District Revenue Officer dated 11.04.2003 has not been served to him and in such circumstances, the demand based on the said errata cannot be sustained.

4. We already pointed out that there is no dispute about the total extent of land purchased by the writ petitioner and its market value. It is also not in dispute that 13% stamp duty is payable for the market value. In such circumstances, the correct stamp duty payable in respect of the document in question is Rs.7,58,264.00. It is our duty to point out that the officer concerned, viz., the Sub-Registrar, Kodambakkam, who issued the earlier proceedings in which the petitioner was asked to pay Rs.1,35,984/- has not furnished any detail. It is but proper on

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his part to refer all the above mentioned details, viz., total extent, rate per square feet and the total value of the land as well as the total stamp duty payable by the petitioner. It is unfortunate that the District Revenue Officer (Stamps) Chennai-1, in his proceedings dated 27.01.2003 has also mentioned the very same amount, viz. Rs.1,35,984/-, as the stamp duty payable by the petitioner. Like Sub-Registrar, he also failed to refer all the required minimum details. Had both the officers adverted to all the relevant details as mentioned above, the mistake could have been avoided. Equally, it is also the responsibility of the petitioner to verify the correct valuation and should pay correct stamp duty in terms of the provisions of the Act. All the above mentioned relevant aspects have not been taken note of by the learned single Judge and the learned single Judge on finding that the petitioner had paid stamp duty as directed by the respondents therein, issued further direction to them for return of the document. We are satisfied that the writ petitioner is liable to pay the differential stamp duty of Rs.5,83,280/-. Though the proceedings of the District Revenue Officer (Stamps), Chennai dated 11.04.2003 directs the petitioner to pay interest at the rate of 2% for belated payment, in view of the conduct of the respondents therein (appellants herein), we make it clear that the writ petitioner is not required to pay interest as claimed in the said proceedings. The respondent/writ petitioner is directed to pay deficit stamp duty of Rs.5,83,280/- in the office of the Sub-Registrar, Kodambakkam, on or before 31.03.2007. On payment of such amount as directed above, the Sub-Registrar, Kodambakkam is directed to return the document to the writ petitioner immediately.

The writ appeal is ordered on the above terms. No costs.

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Sd/
Asst.Registrar

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Sub Asst.Registrar

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To

1. The Sub-Registrar
Kodambakkam
Office of the Sub-registrar
Kodambakkam, Chennai 24.

2. The District Revenue Officer (Stamps)
Singaravelar Maligai
Rajaji Salai
Chennai 600 001.

+ one cc to the Government Pleader sr no. 11531
+ one cc to Mr. A.R. Nixon, Advocate sr no. 11575

sr(co)
nm(02.03.07)

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